

NEWPORT BEACH PLANNING COMMISSION AGENDA
Council Chambers – 3300 Newport Boulevard
Thursday, December 8, 2011
REGULAR MEETING
6:30 p.m.

A. CALL TO ORDER – The meeting was called to order at 6:30 p.m.

B. PLEDGE OF ALLEGIANCE – Led by Commissioner Hillgren

C. ROLL CALL

PRESENT: Ameri, Hillgren, Myers, Toerge, and Kramer
ABSENT (EXCUSED): Hawkins

Staff Present: Kimberly Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; and Tony Brine, City Traffic Engineer

D. RECOGNITION OF CHAIRPERSON CHARLES UNSWORTH FOR HIS DEDICATION AND YEARS OF SERVICE ON THE PLANNING COMMISSION.

Vice Chair Toerge read a letter from Commissioner Hawkins commending outgoing Chairperson Charles Unsworth for his work on the Commission.

Vice Chair Toerge presented Mr. Unsworth with a plaque and a gavel in appreciation for his work, dedication, and service to the City and the Planning Commission.

Mr. Unsworth commented on and expressed appreciation for the opportunity to serve and learn about the City. He commended staff and fellow Commissioners for their help and encouragement.

Commissioner Hillgren expressed his appreciation of Mr. Unsworth and thanked him for his input and help as Chair and Member of the Planning Commission.

E. ELECTION OF OFFICERS

Vice Chair Toerge reported that due to Chairperson Unsworth's resignation, the Commission must nominate new officers for the term ending in June 2012. He offered a brief history regarding nominations typically being made by the senior Commissioner. He indicated that he is the senior Commissioner, and offered to make the nominations, addressed rotation of the Chairperson role and his deferment of the Chairmanship to Commissioner Hawkins, per his request. Vice Chair Toerge reported he did so because he wanted to be Chairman during his last year on the Commission which begins in June 2012 and runs through June 2013. He hoped that he would not lose the opportunity to be Chair during his final year because he will be filling in for outgoing Chair Unsworth.

Vice Chair Toerge reported that the nominations made would not require a second and if there is more than one nomination, the voting would be done by paper ballot. He opened nominations and nominated himself as Chairperson of the Planning Commission, Commissioner Hillgren as Vice Chair, and Commissioner Ameri as Secretary. He asked if there were other nominations.

Commissioner Kramer nominated Commissioner Hillgren as Chairperson, Commissioner Myers as Vice Chair and Commissioner Hawkins as Secretary.

Discussion followed regarding the proper procedure to follow. It was noted that because a second nomination was made, the Commission would vote using a paper ballot.

Commissioner Hillgren commented on his rationale for deferring his Chairmanship and spoke in support of Vice Chair Toerge's desire to serve his last term on the Commission as Chair.

The votes were as follows:

Ameri: Chairman – Michael Toerge
Vice Chairman – Bradley Hillgren
Secretary – Fred Ameri

Hawkins: Absent (Excused)

Hillgren: Chairman – Michael Toerge
Vice Chairman – Bradley Hillgren
Secretary – Fred Ameri

Kramer: Chairman – Bradley Hillgren
Vice Chairman – Michael Toerge
Secretary – Kramer

Myers: Chairman – Michael Toerge
Vice Chairman – Bradley Hillgren
Secretary – Fred Ameri

Toerge: Chairman – Michael Toerge
Vice Chairman – Bradley Hillgren
Secretary – Fred Ameri

A tally of the paper ballots resulted in Michael Toerge as Chair, Bradley Hillgren as Vice Chair, and Fred Ameri as Secretary by a majority of the votes.

F. PUBLIC COMMENTS

Chair Toerge invited comments from those in the audience who wished to address the Commission on other than Agenda items. There was no response and the Public Comments portion of the meeting was closed.

G. REQUEST FOR CONTINUANCES – None.

H. CONSENT ITEMS

ITEM NO. 1 Minutes of November 3, 2011, Study Session

ITEM NO. 2 Minutes of November 17, 2011

Motion made by Vice Chair Hillgren and seconded by Commissioner Kramer, and carried (6 – 0) with Commissioner Hawkins, absent, to approve the minutes of November 3, 2011, Study Session and November 17, 2011, as corrected.

AYES: Ameri, Hawkins, Hillgren, Kramer, Myers, and Toerge
NOES: None.
ABSENT(EXCUSED): Hawkins
ABSTAIN: None.

I. PUBLIC HEARING ITEMS

Community Development Director Brandt reported that both Items No. 3 and No. 4 are before the Planning Commissioner for the same reason; requesting a General Plan Amendment and rezoning in order to become

conforming to the existing pieces on the property. She noted that they are similar to the Frog House amendment considered earlier by the Commission. She added that the reason for this type of request before the Planning Commissioner stems from an adoption of an ordinance in 2008 where the City established a maximum time period to abate non-conforming uses in residential zones. Ms. Brandt reported both of the properties involve non-residential uses in residential zones and therefore need to discontinue those uses or request a General Plan Amendment and re-zone in reflection of the uses currently existing on the properties. She deferred to staff for a report.

ITEM NO. 3 Dr. Morgan Property Amendments (PA2011-138)
1419 Superior Avenue

Assistant Planner Kay Sims provided details of the item addressing location, adjacent and surrounding properties, current zoning, and previously permitted medical office building and uses by Orange County jurisdiction. She noted uses have been non-conforming since the City annexed the area in 1979, designated as an area to be developed for multi-family residential uses and the present request to allow the existing medical office building and uses to remain on the property. Ms. Sims addressed location of existing parking and reported that those properties are not subject to abatement, do not have structures on them and are not part of the application request. She noted that the three (3) properties are owned, in common, by the applicant and that in order to maintain all the parking spaces for the uses on the site, staff has prepared a change to the draft resolution as follows:

Statement of Facts, No. 13 – Thirteen (13) parking spaces are provided on the subject site and an additional thirty-three (33) parking spaces are provided on the lot adjacent to the rear and north-westerly side of the subject property. The three properties are owned, in common, by the applicant. Prior to City Council approval, a covenant agreement will be recorded with the County of Orange to hold these three properties as a single parcel and building site.

Ms. Sims reported that staff believes requiring abatement of the existing medical uses on the subject property at this time would be contrary to the General Plan policies as stated in the staff report. Continuation of the uses and future development consistent with the medical office designation would not conflict with the General Plan and stated that staff recommends approval of the amendment as requested.

In response to an inquiry by Chair Toerge, Ms. Sims reported that the properties are not subject to abatement and at this time the property owner would prefer not to change the designation. He may be able to do so in the future or perhaps change the subject property back to multi-unit residential.

Commissioner Ameri commented that the entire strip area will have office buildings and felt that consideration should be given to making changes to the area comprehensively, rather than on an individual basis.

Ms. Brandt noted that in this application, staff is looking for an abatement requirement for this particular property but the issue of considering the area, comprehensively, can be pursued at a different time.

Commissioner Myers commented on the modification to the Statement of Facts, No. 13 as clarifying his questions regarding durability of the parking areas.

Chair Toerge invited the applicant to address the Planning Commission on this item.

Dennis O'Neil, representing the applicant, addressed the Commission noting that this is an area that lends itself to medical office uses, due to its proximity to Hoag Hospital. He expressed agreement with the staff report and its findings. He reported including all three (3) parcels in the original application but then noticed they would exceed the threshold allowable under the Charter 423 provision and therefore, they removed the two (2) parking parcels. He that noted they wanted to make sure those parcels were tied to the medical office building and that staff recommended they do so through a covenant agreement which has been executed, notarized, and delivered to the City. He encouraged the Commission to approve staff's recommendations.

Chair Toerge opened the public hearing. Seeing and hearing no one else willing to address the Commission, the public hearing was closed.

Motion made by Vice Chair Hillgren, seconded by Commissioner Kramer to adopt Resolution No. PA2011-138 recommending the City Council approve General Plan Amendment No. GP2011-007; and Code Amendment No. CA2011-010 as presented. The motion carried with the following roll call vote:

AYES:	Ameri, Hawkins, Hillgren, Kramer Myers, and Toerge
NOES:	None.
ABSENT(EXCUSED):	Hawkins
ABSTAIN:	None.

ITEM NO. 4 Presta Property Amendments (PA2011-179)
2888 & 2890 Bay Shore Drive

Assistant Planner, Makana Nova, presented details of the application addressing location of parcels, adjacent properties, original development, number of units, structures supporting the development and commercial uses occurring over time. She noted that because of the commercial uses on the residentially zoned property, the uses are subject to abatement as currently zoned. Therefore, the applicant has submitted a code amendment request in order to allow commercial uses on the property. Ms. Nova reported that the requested amendment for the property to the south is to address a necessary change in the density and the land use designations would be changed to accommodate 39 dwelling units. She added that the property to the north would be changed to a Mixed-Use Water-Related designation (MU-W2, with a limitation of one dwelling unit to reflect the existing development on the property).

Ms. Nova reported that some of the required parking for the existing apartment complex is provided on the northerly parcel. When the two (2) parcels were re-subdivided in 1995, there were easements that were created to address parking. She added that the amendments would add some commercial floor area to the thresholds for the SD423 but none of those thresholds are exceeded.

In response to an inquiry by Vice Chair Hillgren, Ms. Nova reported the request for a change to 39 dwelling units would reflect the existing development. Any changes could potentially affect the parking.

Community Development Director Brandt clarified that there are two (2) zoning designations proposed for the two properties which could be re-developed in the future, independently of one another. However, there is existing parking provided on the northerly parcel, which would need to be resolved at that time. She added that there is the potential to develop 39 new units with the demolition of the existing structures and do a combination of parking garages with units on top.

In answer to a follow up question by Vice Chair Hillgren, Ms. Brandt reported that the zoning code establishes that there could be no more than 39 units in the southerly parcel. The new development would have to conform to all the zoning standards for the zoning designation. The maximum height for that property would remain unchanged regardless of density limitations.

Senior Planner Ramirez confirmed that the height limit is 28 feet and that the floor-area limit is determined by the size of the lot, and not by the number of units.

Discussion ensued related to the current building heights. It was noted that the current height is close to what is allowed. Discussion continued regarding the number of units currently allowed per acre and possible developments in the future.

Ms. Brandt reported that overall, the density that exists today would be the same density if both parcels were scraped and redeveloped.

Vice Chair Hillgren expressed concerns with the building envelope that ultimately might be developed and making sure that the City is not allowing, by this action, a four or five-story building at that location.

Commissioner Ameri expressed concerns regarding the impacts on traffic and vehicular circulation by increasing the density.

Chair Toerge noted that the density is not being increased.

Staff explained that the density is increasing to allow commercial development on the northerly parcel and there could be an increase in commercial, but not residential dwelling units.

Chair Toerge opened the public hearing.

Allison Presta, property owner, reported that the reason for the application is to bring the existing use within the current General Plan. She addressed the marina site and presented a brief history of the development of the property. She stated that she had no intention of scraping or redeveloping the property or converting the existing units into condominiums.

Seeing and hearing no one else wishing to address the Commission, the Chair closed the public hearing.

Vice Chair Hillgren noted that the property owner's goals are recognized and stated that the intent was to protect and preserve the existing conditions.

Motion made by Vice Chair Hillgren, seconded by Commissioner Ameri and carried (6 – 0) with Commissioner Hawkins absent, to adopt Resolution No. PA2011-179 recommending the City Council approve General Plan Amendment No. GP2011-008; approve Local Coastal Plan Amendment No. LC2011-004; and approve Code Amendment No. CA2011-011. The motion carried with the following roll call vote:

AYES:	Ameri, Hawkins, Hillgren, Kramer, Myers, and Toerge
NOES:	None.
ABSENT(EXCUSED):	Hawkins
ABSTAIN:	None.

J. NEW BUSINESS - None

K. STAFF AND COMMISSIONER ITEMS

ITEM NO. 5 Community Development Director's report.

- 1) Confirmation of Newport Beach Banning Ranch Study Session dates.

Community Development Director Brandt reported that the City Council is scheduled to make an appointment to the Planning Commission at its meeting of December 13, 2011. She deferred to staff for a presentation regarding the Newport Beach Banning Ranch study sessions.

Planning Manager Alford addressed the preparation of the Environmental Impact Report (EIR) for the Newport Banning Ranch project. He reported that the project is large and complex and warrants a discussion beyond simply its environmental impacts. Therefore, he reported that staff would like to propose a series of study sessions on the project and its components with the main goal of reviewing the application that is before the City. He added that staff is proposing three (3) study sessions beginning with one (1) on January 19, 2012, and focusing that meeting on subdivision design circulation. A second study session is suggested on February 9, 2012, to focus on open space parks and trails and a third is suggested for February 23, 2012, to consider land uses, development regulations and guidelines, and architectural guidelines.

Mr. Alford reported these study session are envisioned as 90-minute sessions, beginning at 4:30 p.m. but would like to have an additional hour for the session scheduled for February 23, 2012, to give a presentation on the EIR and discuss the environmental analysis that was completed.

Chair Toerge inquired about the agenda for those meetings and confirmed with staff regarding start and end times. He addressed a holding period in the General Plan giving the conservancy an opportunity to buy the property and asked regarding possible offers made and the willingness of the owners to sell. Chair Toerge requested that at one of the study sessions, parties be compelled to provide a status update regarding possible discussions to sell/buy the property.

Mr. Alford indicated the preference is to focus on the subjects being proposed but suggested providing a memorandum of all the steps that have taken place relative to efforts to making the property available for acquisition.

Chair Toerge indicated that he would like to understand what has been happening relative to opportunities to buy the property, sooner rather than later.

Commissioner Hillgren commented that the parties have had a couple of years to resolve the issue and opined that the Commission should address the fact that the issue is a part of the General Plan but expressed concern over getting too specific in studying it.

Chair Toerge noted that the issue is in the General Plan but has not been brought up at all by staff. He indicated that he would like to understand what has happened in that regard, if anything.

ITEM NO. 6 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

None.

ITEM NO. 7 Request for excused absences.

Commissioner Kramer reported there is only one (1) subject item on the agenda for the January 5, 2012, meeting and inquired as to that item being placed on the agenda for the January 19, 2012, meeting and cancelling the meeting scheduled for January 5, 2012.

Ms. Brandt agreed with Commissioner Kramer's request to cancel the Planning Commission meeting scheduled for January 5, 2012.

ADJOURNMENT – The meeting was adjourned at 7:31 p.m.